

DEPARTMENT OF DEFENSE  
Headquarters  
Combined Joint Special Operations Task Force – West  
APO AE 09367

CJSOTFW-JA

28 APR 03

MEMORANDUM FOR CDR, CJSOTFW, APO AE 09367

SUBJECT: Official Enquiry Into the Death of Tanik S. Mahmud, a Prisoner of War

1. On 12 April 2003, this headquarters received a report that an Enemy Prisoner of War (EPW) was dead on arrival at an EPW collection point at H1 Airfield, Iraq. The initial report stated that the EPW died of a heart attack. Later enquiries as to the cause of death listed by the attending medical doctor on the certificate of death revealed that the cause of death was listed as unknown. Under the Geneva Convention Relative to the Treatment of Prisoners of War, article 121, every death of a prisoner of war, the cause of which is unknown, shall be followed by an official enquiry by the Detaining Power. Accordingly, this headquarters requested reports from each element involved in the EPW transport.
2. Three Coalition elements were involved in the EPW capture and transport: Task Force 64 (TF 64), the Australian special forces task group under the tactical control of this headquarters; Task Force 14 (TF 14), the British special forces task group, also under the tactical control of this headquarters; and Task Force Seminole, the U.S. Army civil-military affairs task group under the operational control of Combined Forces Special Operations Component Command (CFSOCC). The TF 64 element was accompanied one U.S. Air Force Special Tactics Squadron member.
3. 1<sup>st</sup> Squadron, TF 64, captured the EPW while conducting a vehicle check point (VCP) west of Ar Ramadi, Iraq, at approximately 1300Z, 11 APR 03. Initial reports were that fifty EPW required transport to the collection point at H1 Airfield, but TF64 detained a total of 60 suspected Fedayeen members, including three suspected Ba'ath Party members, and four Iranians for a total of 64 EPW. These personnel were in a bus and two cars that were stopped at the VCP. Of note, the captured Iranians carried a total of \$630,000 (USD) and other currency and a letter offering \$5000 for each American killed.
4. TF 64 controlled the EPW from capture until he was turned over to TF 14 for helicopter transport to the EPW holding area at H-1. TF 64 and TF Seminole coordinated with TF 14 for transport of the EPW. A message from Bravo Headquarters, TF 64, states that all EPW had food and water prior to being transported, and no significant medical conditions were noted upon visible inspection. They were given food and blankets to keep warm. Additionally, "[a]t no stage did the PWs receive any rough handling which would have caused any injury. They were spoken to firmly and searched then they sat on the ground until night fall." After that they were moved to sit in the bus and other vehicles to keep warm until TF 64 arrived.



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5. Two TF 14 CH-47 helicopters with fourteen Armed Reaction Force (ARF) personnel each departed H-1 at 1925Z, 11 APR 03, for the link-up with TF 64. There were a total of 64 EPW transported, requiring three flights by each aircraft to complete the mission. TF 14, which had the opportunity to plan for and rehearse the movement of EPW, was trained on the use of minimum force. The trip there was uneventful and the helicopters landed at 1950Z.
6. Once TF 14 arrived, TF 64 personnel secured the EPW with plasti-cuffs. TF 14 personnel noted upon arrival what they characterized as poor preparation of the EPW, who were described in the TF 14 official memo concerning this event as "poorly cuffed and bagged." No EPW had bags on their heads. TF 14 personnel put sand bags on the heads of the EPW for security purposes to restrict their visibility during transport. According to its report, "TF 14 personnel escorted each EPW to the CH47s. During the loading procedure, each EPW was forced to the floor face down into a posture that allowed positive ARF control."
7. TF 14 personnel left additional ties and sandbags with TF 64 after leaving with the first load of EPW. An exemplar of the bags used accompanies this report. The bags are burlap bags through which a person can breathe.
8. TF 14 personnel planned to transport seven EPW in one helicopter and eight in the other. The helicopter that the subject EPW was placed onto was intended to only have eight EPW, but the escorts mistakenly put ten EPW onto the helicopter, including Tanik Mahmud. He was the second-to-last EPW loaded. Once onboard, he refused to get down onto the floor of the aircraft. The TF 14 report states as follows:

"A member of the ARF was then instructed to kneel on the subject EPW's back to subdue him. The ARF then attempted to move all EPW's forward to facilitate the closing of the [aircraft] ramp as directed by the Air Load Master. At this time, the subject EPW became violent and as he was moved, freed himself from the plasticuffs and stood up, flailing his arms, striking out at ARF personnel and attempting to move forward in the aircraft. Seeing this development the linkman swept the subject EPW's legs away with his own foot, holding the EPW and lowered him to the floor. He then knelt on the subject's back and re-cuffed him. He also ensured the hood was secure. This subdued the subject EPW and a ARF member was detailed to stand guard, kneeling on the subject EPW's back. . . After an unspecified time the linkman observed a large wet patch, which he assumed to be urine around the subject EPW. The linkman was initially concerned and shook the EPW by the leg, telling his guard to monitor him.

"At this time, there was some commotion at the front of the aircraft due to one of the EPW's losing his artificial legs. This drew the attention of the linkman away from the subject EPW. On refocusing on the subject EPW the link man was content that he was passive and compliant. The aircraft then arrived at H1, and all Lifter 2 EPWs remained on the aircraft until ordered to move by the ARF commander."

Upon arrival at H-1, the aircraft Chalk Commander left the CH-47 to coordinate the unloading of the EPW. The EPW closest to the rear of the helicopter (nearest the ramp) was moved off of the



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aircraft by two ARF personnel. Tanik Mahmud was next, and was found to be unresponsive. The ARF personnel then moved onto the next EPW, who was also found to be unresponsive. The decision was then made to unload the seven ambulatory EPW first, leaving the two unresponsive EPW and the non-ambulatory EPW on the aircraft for the time being. The unloading was done in this manner. It is unclear how long it took to move all the ambulatory EPW off of the aircraft.

9. There is no indication that any person gave either unconscious EPW any medical assessment (check for pulse, etc.) when they were found to be unresponsive. After the seven ambulatory EPW were removed from Lifter 2, the Chalk Commander "then informed the Chalk Comd of Lifter 1 and the ARF Comd that he suspected that EPWs 2 & 3 were unconscious." Lifter 2 Chalk Commander then requested military transport casualty evacuation from the U.S. forces. Of note, the helicopter-landing zone (HLZ) at H-1 was located outside the camp. 2LT [REDACTED] the military police (MP) officer who provided a sworn statement, stated that the weather was "cold, dark and very windy. Combined with the two CH-47 helicopters that landed, visibility was narrowed to five feet. It was brown out conditions within the HLZ, with sand [whipping] everywhere . . ."

10. 2LT [REDACTED] stated that after the helicopters landed, the British chalk commander came off of the closest helicopter and told him that the British would bring the prisoners to them. The EPW were then brought to the MPs with "... two soldiers per EPW. The British troops dragged them out of the helicopter lying them face down and side by side. The EPW's were zip tied with bags over their heads." After a discussion about the personal property and currency accompanying the EPW, 2LT [REDACTED] counted the EPW and realized that there were two missing. 2LT [REDACTED] then states that "I asked to see the US dollars and other items that I was signing for and I told the British NCOIC that I was short two EPW's. He stated didn't they tell you mate, I have two EPWs that are not moving and need transportation. I asked are they alive? He stated yes." 2LT [REDACTED] then directed the MP element to get the two EPW. 2LT [REDACTED] then turned his attention to accounting for the personal property and currency. He then made sure that the two unconscious EPW were in a HMMWV, and then instructed the other MPs to put the EPW with no legs into the front seat of the HMMWV, which they did. 2LT [REDACTED] then proceeded back to the EPW holding area in a separate vehicle. He was later informed that one of the EPW was dead.

11. TF 14 personnel felt that they were under "some time pressure [to complete the mission] induced by the increased number of EPW (40-50 EPWs' initially briefed, actually 64 EPWs' were taken), aircraft refueling timings and the requirements to complete all moves during the remaining hours of darkness." They needed to go back to meet with TF 64 to get more EPW and quickly departed after unloading all of the EPW, including Tanik Mahmud. The last prisoners that night were not taken from TF 64 until approx 2330Z. TF 14 personnel were apparently frustrated by the fact that upon their return the EPW were still not properly secured.

12. SGT [REDACTED], TF Seminole MP, provided a sworn statement. He states that at approximately 2033Z two British officers approached him and told him that they had two unconscious EPW as well as an EPW who had no legs. SGT [REDACTED] told them that his HMMWV



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was "battle loaded" and there was, therefore, no room. The officers then suggested that he call to headquarters to get another vehicle, but SGT [REDACTED] informed them that communications were out. SGT [REDACTED] then told them that he would make room in his HMMWV for them. The British officers then left and returned ten minutes later to guide SGT [REDACTED] in his vehicle to the helicopter. The British officers then loaded the two unconscious EPW into the back of the HMMWV, one at a time. According to SGT [REDACTED]'s recollection, the subject EPW was placed first in the HMMWV, on his stomach. The second unconscious EPW was loaded on top of him. Neither one appeared to move or be conscious.

13. SGT [REDACTED] states that the EPW with no legs was then loaded into the front passenger seat of the HMMWV. SGT [REDACTED] then ran behind the HMMWV as it transported the EPW in order to make sure that the EPW in the back could not escape. The EPW were brought directly to the area immediately outside the EPW holding area.

14. 1LT [REDACTED], TF Seminole MP, provided a sworn statement. He states that all of the ambulatory EPW were removed from the helicopter first. That left the three EPW noted above. His statement corroborates the facts that the EPW with no legs was removed to the HMMWV, that an EPW who "passed out" was removed to the back of the HMMWV, and that a third EPW who was unconscious was removed by TF 14. 1LT [REDACTED] statement does not say where that EPW was placed. The EPW were then taken to the entrance of the EPW holding area where medical personnel were standing by.

15. Upon arrival at the holding facility, SGT [REDACTED] told SSG [REDACTED] that a doctor was needed for the two EPW, who were believed by SGT [REDACTED] at that time to be "possible dead or seriously injured." According to SGT [REDACTED] the time that the two EPW arrived in the area of the collection point was approximately 2100Z.

16. SSG [REDACTED], 96<sup>th</sup> Civil Affairs Battalion, provided a sworn statement. He states that the MPs, prior to the arrival of the HMMWV at the EPW holding area, that two of the EPW being transported had "fallen out" during the air transport. He states that at approximately 2115Z he conducted an initial assessment of the medical condition of the two EPW, apparently while they were still in the HMMWV. He assessed that one was living and the other EPW appeared to be dead, but needed further confirmation. He directed that the living EPW be brought inside the EPW holding area and that subject be put on the ground. Subject still had the sand bag on his head, which was removed. He observations were as follows: "No signs of trauma or mortal wounds. The only wounds noted were a bloody nose. Pupils were dilated and unresponsive. No pulse was present. Babinski rub was negative. Capillary refill was negative. No respirations were evident. Due to recent bowel release and warm body temperature, I determined the detainee was deceased ...." He then waited for CPT [REDACTED] to make the official designation of death.

17. SFC [REDACTED] Y also provided a sworn statement. He was positioned at the entrance to the EPW holding area when the HMMWV arrived. He puts the time at 2000Z. He states that he was told that there were two EPW in the back of the vehicle who "were not able to walk on their own" as well as an EPW in the front who had no legs. [REDACTED] and another



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person first removed the EPW with no legs and put him inside the EPW holding area. SFC [REDACTED] then went to the back of the HMMWV and tried to get subject EPW to respond, with no response. SFC [REDACTED] and another person removed subject from the back of the HMMWV. The medical officer (assumedly SSG [REDACTED]) began to check him. SFC [REDACTED] states that the flex cuffs were cut off. Additionally, he states that "I tried to take his hood off but it was taped to (sic) tight." SFC [REDACTED] later adds that the tape was not so tight as to constrict breathing; it just would not pull over the chin. Because he could not find the end of the tape to pull it off and the doctor wanted the hood removed, SFC [REDACTED] cut the hood off with his knife.

18. A Department of Defense civilian, [REDACTED], was also present at the time that the subject EPW was brought in by the HMMWV. He states that "when [subject's] shirt was raised/open it appeared his chest had been shaved and he had a scar that is consistent with heart surgery. However, it was dark and chaotic, so I can not be absolutely sure. Scar was vertical on midsection." There is no corroboration of this observation of the scar on the subject's chest from any other witness.

19. CPT [REDACTED] examined subject at the entrance to the EPW holding area. The examination included sternal rub and stethoscopic examination. He found no signs of life. CPT [REDACTED] also does not remember subject having any scar on his chest, a bloody nose or signs of asphyxiation, cranial fracture, chest scar, or myocardial infarction. However, CPT [REDACTED] points out in his sworn statement that he was told that there was a second unconscious EPW who needed urgent medical care (the other unconscious EPW who was taken inside the EPW holding area) and was concerned about getting to him to examine and treat him. Therefore, CPT [REDACTED] was not making notes of any other medical conditions that subject EPW might have had, as he was of the opinion that these matters were irrelevant to the issue of whether or not subject was alive.

20. Digital photographs were taken of subject from approximately the waist up. These photos, which only show his face and palms of his hands (all other parts clothed), do not show any obvious signs of injury or trauma. There is no sign of blood anywhere on subject or his clothing (including white shirt), other than possibly a small amount under his nose.

21. CPT [REDACTED] did not determine a cause of death and stated that he is not qualified as a pathologist. He completed a DD Form 2669-R, Certificate of Death, which listed the cause of death as "unknown."

22. Of note, according to a sworn statement of SSG [REDACTED] K, the second EPW who was brought in unconscious regained consciousness on his own and was able to walk under his own power immediately after regaining consciousness.

23. All but two of the EPW were transported from H-1 for onward movement to the EPW camp within the days following the incident. These two EPW were questioned about what they knew about subject. No significant information was provided. They provided written statements in which both stated that they had no problems breathing with the sand bags over their heads.



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24. The subject EPW was identified by his passport, which was found with the personal property of all the EPW. He was properly buried near H-1, in a ceremony respecting all Muslim traditions, as determined by two other EPW who assisted coalition personnel, within one day of his death.
25. The cause of death remains unknown. The EPW probably died during the flight to H-1. The initial report that the EPW died of a heart attack was speculative. The facts known at this time, however, do not support a conclusion as to the cause of death. An autopsy could assist in the determination of the cause of death. The procedures used during transport generally appear appropriate. The manner of subduing the EPW also appears appropriate under U.S., British, and Australian rules of engagement or rules on the use of force.
26. Multiple factors impacted on medical assessment and assistance. The guard, in dealing with an EPW who earlier was combative, in blackout conditions at night, in the confines of a CH-47 EPW transport in flight, properly maintained positive control of the EPW. Upon landing and unloading, the blackout and brownout conditions, the safety of the forces and the other EPW during unloading and handover, the availability of medical personnel at the landing zone, and the time constraints driving prompt unloading and departure of the aircraft for subsequent transports impacted on medical assessment and assistance.
27. Under the circumstances, it does not appear that any unlawful act or omission caused the death or seriously endangered the health of the EPW. It does not appear that any person willfully deprived the EPW of the protections afforded by the Conventions. The command is not required, under the circumstances, to report the matter as a possible war crime or to take steps to punish any individual.
28. Under the circumstances, some doubt exists as to which party is the Detaining Power for purposes of responsibilities under the Geneva Conventions. The tri-partite agreement between the United States, the United Kingdom, and Australia, dated 23 MAR 03, provides that in such circumstances, all parties will be jointly responsible until the Detaining Power has by mutual arrangement been determined.
29. Under the circumstances, there is no functioning government of Iraq to act as a Protecting Power under the Geneva Conventions. In such circumstances, the International Committee of the Red Cross (ICRC) may assume the humanitarian functions performed by a Protecting Power. GPW, art. 9-10.
30. Recommendations.
- a. Recommend that notification of a prisoner-of-war death under unknown circumstances be provided to the ICRC under GPW, art. 121.
  - b. Recommend that the commanders of the elements involved in the EPW capture, transport, and reception be advised to retain all records relating to the incident and record the

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identity of all personnel with knowledge of the incident in the event that further enquiry is necessary.

c. Recommend that this matter be forwarded through the chain of command to the liaison officers responsible for the implementation of the tri-partite agreement to mutually arrange or determine which party is the Detaining Power for purposes of taking other appropriate action.

d. Recommend that the graves registration packet be forwarded to the Theater Enemy Prisoner of War Camp at Umm Qasr, Iraq.

31. POC for this action is the undersigned at DSN 318-455-1626.

A large, solid black rectangular redaction box covering the signature and name of the undersigned.

Major, United States Army  
Staff Judge Advocate